

Applicant : Roland Busse
Appln. No. : 10/500,078
Page : 15

REMARKS

Claims 20-79 are pending in the present application. Reconsideration is respectfully requested for the following reasons.

Claims 21-28, 30-37, 41-48, 50-57, 61-68 and 70-77 have been indicated as being allowable. Applicant would like to thank the Examiner for that indication.

Claim 28 has been objected to as including unclear phraseology and the Examiner has suggested replacing the language of 28 with the language of claim 48. According to the Examiner, such an amendment will still encompass the same scope. Applicant has made such amendment and now believes that the objection to claim 28 is obviated.

Claims 29, 30, 39, 49, 58, 59, 69, 78 and 79 have been rejected under 35 U.S.C. §112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. According to the Office Action, these claims include phrases that do not have antecedent basis. Claims 29, 38, 48, 49, 58, 69 and 78 have been amended to provide antecedent basis for all the language in these claims. Accordingly, Applicant submits that the rejection of the above claims as being indefinite has been obviated.

Claims 20, 40 and 60 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20, 27, 40, 47, 60 and 67 of U.S. Patent Application No. 10/500,566. While Applicant disagrees with the obviousness-type double patenting rejection of these claims and Applicant submits that these claims are non-obvious over the claims of the '566 application, Applicant hereby submits a Terminal Disclaimer to overcome any obviousness-type double patenting rejection to expedite prosecution.

Claims 20, 40 and 60 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,388,690 to Hostetler. "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of anticipation based upon the prior art. *In re Sun*, 31 U.S.P.Q.2d 1451, 1453 (Fed. Cir. 1993)

Applicant : Roland Busse
Appln. No. : 10/500,078
Page : 16

(unpublished). Applicant respectfully asserts that the Examiner has not yet met his burden of establishing a prima facie case of anticipation with respect to the rejected claims.

Claim 20 defines a device for the feeding of free-range poultry kept in a coop with at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, with the pipe having at least one aperture. The device comprises a bowl device configured to be suspended on the feed delivery pipe. The bowl device includes a feed bowl located beneath a downpipe. The bowl device further includes a cupola formed from grid bars in spoke fashion. The downpipe comprises an inner cylinder configured to depart from the aperture and an outer cylinder encompassing the inner cylinder, on which the bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the inner cylinder. At least one lifting stop is provided for delimiting a lifting and lowering path of the bowl. The downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder.

The prior art of record does not disclose or suggest the above noted features of claim 20. Specifically, Applicant submits that the Hostetler '690 patent does not disclose or suggest an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of an outer cylinder in relation to an inner cylinder along with the remaining elements of claim 20. According to the Office Action, the Hostetler '690 patent includes a system with at least one lifting stop 75 for delimiting a lifting and lowering path of a bowl 34 and that a downpipe that includes at least one rotational stop 72 delimiting a rotational path of an outer cylinder 36 in relation to an inner cylinder 22. According to the Hostetler '690 patent, a feed control cylinder support stand 38 includes a plurality of legs 74 that are configured to maintain a distance between a bottom of the feed control cylinder 36 and a pan 34. As outlined in lines 3-33 of column 4 of the Hostetler '690 patent, the control cylinder support stand 38 rests on a bottom of the pan 34 and the support legs 74 are configured to be inserted into holes 72 and slots 75 in the feed control cylinder 36. One of the legs 74 is configured to be inserted into one of the holes 72 to fix the distance between the feed

Applicant : Roland Busse
Appln. No. : 10/500,078
Page : 17

control 36 and the pan 34. Instead of having three rows of holes 72, the Hostetler '690 patent includes two slots 74 to move the control cylinder support stand 38 on the feed control cylinder 36. However, the relationship between the support cylinder 22, the feed control cylinder 36, the control cylinder support stand 38 and the pan 34 are fixed until someone manually removes one of the legs 74 from one of the holes 72 and places the one of the legs 74 in another one of the holes 72. Furthermore, as shown in FIG. 3 of the Hostetler '690 patent, the holes 72 do not delimit a rotational path of the outer cylinder in relation to the inner cylinder as the feed control cylinder 36 can rotate relative to the support cylinder 22 regardless of whether or not the legs 74 are in the holes 72. Therefore, the Hostetler '690 patent does not disclose an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. Accordingly, claim 20 is in condition for allowance.

Claim 40 defines a device for the feeding of free-range poultry kept in a coop with at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, with the pipe having at least one aperture. The device comprises a bowl device configured to be suspended on the feed delivery pipe. The bowl device comprises a feed bowl, a cupola, and a downpipe. The feed bowl is located beneath the downpipe, with the cupola being formed from grid bars in a spoke fashion. The downpipe comprises an inner cylinder configured to depart from the aperture and an outer cylinder encompassing the inner cylinder. The feed bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the inner cylinder. The bowl device includes at least one lifting stop for delimiting a lifting and lowering path of the bowl and the downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder.

The prior art of record does not disclose or suggest the above noted features of claim 40. Specifically, Applicant submits that the Hostetler '690 patent does not disclose or suggest an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of an outer cylinder in relation

Applicant : Roland Busse
Appln. No. : 10/500,078
Page : 18

to an inner cylinder along with the remaining elements of claim 40. According to the Office Action, the Hostetler '690 patent includes a system with at least one lifting stop 75 for delimiting a lifting and lowering path of a bowl 34 and that a downpipe that includes at least one rotational stop 72 delimiting a rotational path of an outer cylinder 36 in relation to an inner cylinder 22. According to the Hostetler '690 patent, a feed control cylinder support stand 38 includes a plurality of legs 74 that are configured to maintain a distance between a bottom of the feed control cylinder 36 and a pan 34. As outlined in lines 3-33 of column 4 of the Hostetler '690 patent, the control cylinder support stand 38 rests on a bottom of the pan 34 and the support legs 74 are configured to be inserted into holes 72 and slots 75 in the feed control cylinder 36. One of the legs 74 is configured to be inserted into one of the holes 72 to fix the distance between the feed control 36 and the pan 34. Instead of having three rows of holes 72, the Hostetler '690 patent includes two slots 74 to move the control cylinder support stand 38 on the feed control cylinder 36. However, the relationship between the support cylinder 22, the feed control cylinder 36, the control cylinder support stand 38 and the pan 34 are fixed until someone manually removes one of the legs 74 from one of the holes 72 and places the one of the legs 74 in another one of the holes 72. Furthermore, as shown in FIG. 3 of the Hostetler '690 patent, the holes 72 do not delimit a rotational path of the outer cylinder in relation to the inner cylinder as the feed control cylinder 36 can rotate relative to the support cylinder 22 regardless of whether or not the legs 74 are in the holes 72. Therefore, the Hostetler '690 patent does not disclose an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. Accordingly, claim 40 is in condition for allowance.

Claim 60 defines a feeding system for the feeding of free-range poultry kept in a coop comprising at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, with the pipe having at least one branch aperture, and a bowl device suspended on the feed delivery pipe and in connection with one of the at least one branch aperture. The bowl device comprises a feed bowl, a cupola, and a downpipe. The feed bowl is located beneath the downpipe. The cupola is formed from grid bars in a spoke fashion. The downpipe comprises an inner cylinder departing from the aperture and an outer cylinder

Applicant : Roland Busse
Appln. No. : 10/500,078
Page : 19

encompassing the inner cylinder. The feed bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop. The outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the inner cylinder. The bowl device includes at least one lifting stop for delimiting a lifting and lowering path of the bowl. The downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder.

The prior art of record does not disclose or suggest the above noted features of claim 60. Specifically, Applicant submits that the Hostetler '690 patent does not disclose or suggest an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of an outer cylinder in relation to an inner cylinder along with the remaining elements of claim 60. According to the Office Action, the Hostetler '690 patent includes a system with at least one lifting stop 75 for delimiting a lifting and lowering path of a bowl 34 and that a downpipe that includes at least one rotational stop 72 delimiting a rotational path of an outer cylinder 36 in relation to an inner cylinder 22. According to the Hostetler '690 patent, a feed control cylinder support stand 38 includes a plurality of legs 74 that are configured to maintain a distance between a bottom of the feed control cylinder 36 and a pan 34. As outlined in lines 3-33 of column 4 of the Hostetler '690 patent, the control cylinder support stand 38 rests on a bottom of the pan 34 and the support legs 74 are configured to be inserted into holes 72 and slots 75 in the feed control cylinder 36. One of the legs 74 is configured to be inserted into one of the holes 72 to fix the distance between the feed control 36 and the pan 34. Instead of having three rows of holes 72, the Hostetler '690 patent includes two slots 74 to move the control cylinder support stand 38 on the feed control cylinder 36. However, the relationship between the support cylinder 22, the feed control cylinder 36, the control cylinder support stand 38 and the pan 34 are fixed until someone manually removes one of the legs 74 from one of the holes 72 and places the one of the legs 74 in another one of the holes 72. Furthermore, as shown in FIG. 3 of the Hostetler '690 patent, the holes 72 do not delimit a rotational path of the outer cylinder in relation to the inner cylinder as the feed control cylinder 36 can rotate relative to the support cylinder 22 regardless of whether or not the legs 74 are in the

Applicant : Roland Busse
Appln. No. : 10/500,078
Page : 20

holes 72. Therefore, the Hostetler '690 patent does not disclose an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. Accordingly, claim 60 is in condition for allowance.

Claims 20, 29, 40, 49, 60 and 69 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,092,274 to Cole et al. The standard for rejecting a claim as being anticipated by the prior art is outlined above.

The contents of claim 20 are outlined above. Applicant submits that the Cole et al. '274 patent does not disclose or suggest all of the above noted features of claim 20. Specifically, the Cole et al. '274 patent does not disclose or suggest an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder along with the remaining elements of claim 20. According to the Office Action, the Cole et al. '274 patent includes an inner cylinder 42 and an outer cylinder 56. According to the Cole et al. '274 patent, element 42 is a lower cylindrical portion 42 of a feeder tube 32 and element 56 is a cylindrical top section 56 of a cone member 34. The feeder tube 32 is located within the cone member 34. These two members include hooks 68 and latches 72 configured to engage to lift the cone member 34 with the lifting of the feeder tube 32. In order to change engagement between the hook 68 and latches 72, the cone member 34 must be manually rotated relative to the feeder tube 32. However, when the hooks 68 and latches 72 are not manually rotated to be in engagement, the feeder tube 32 will lift the upper feed gate 60 with lift means 72. Therefore, the Cole et al. '274 patent does not disclose an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. Such rotatable and rotational delimiting elements are not disclosed. Accordingly, claim 20 is in condition for allowance. Furthermore, claim 29 depends from claim 20, and since claim 20 defines patentable subject matter as discussed above, claim 29 defines patentable subject matter. Accordingly, claims 20 and 29 are in condition for allowance.

Applicant : Roland Busse
Appln. No. : 10/500,078
Page : 21

The contents of claim 40 are outlined above. Applicant submits that the Cole et al. '274 patent does not disclose or suggest all of the above noted features of claim 40. Specifically, the Cole et al. '274 patent does not disclose or suggest an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder along with the remaining elements of claim 40. According to the Office Action, the Cole et al. '274 patent includes an inner cylinder 42 and an outer cylinder 56. According to the Cole et al. '274 patent, element 42 is a lower cylindrical portion 42 of a feeder tube 32 and element 56 is a cylindrical top section 56 of a cone member 34. The feeder tube 32 is located within the cone member 34. These two members include hooks 68 and latches 72 configured to engage to lift the cone member 34 with the lifting of the feeder tube 32. In order to change engagement between the hook 68 and latches 72, the cone member 34 must be manually rotated relative to the feeder tube 32. However, when the hooks 68 and latches 72 are not manually rotated to be in engagement, the feeder tube 32 will lift the upper feed gate 60 with lift means 72. Therefore, the Cole et al. '274 patent does not disclose an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. Such rotatable and rotational delimiting elements are not disclosed. Accordingly, claim 40 is in condition for allowance. Furthermore, claim 49 depends from claim 40, and since claim 40 defines patentable subject matter as discussed above, claim 49 defines patentable subject matter. Accordingly, claims 40 and 49 are in condition for allowance.

The contents of claim 60 are outlined above. Applicant submits that the Cole et al. '274 patent does not disclose or suggest all of the above noted features of claim 60. Specifically, the Cole et al. '274 patent does not disclose or suggest an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder along with the remaining elements of claim 60. According to the Office Action, the Cole et al. '274 patent includes an inner cylinder 42 and an outer cylinder 56. According to the Cole et al. '274 patent, element 42 is a lower cylindrical portion 42 of a feeder tube 32 and element 56 is a

Applicant : Roland Busse
Appln. No. : 10/500,078
Page : 22

cylindrical top section 56 of a cone member 34. The feeder tube 32 is located within the cone member 34. These two members include hooks 68 and latches 72 configured to engage to lift the cone member 34 with the lifting of the feeder tube 32. In order to change engagement between the hook 68 and latches 72, the cone member 34 must be manually rotated relative to the feeder tube 32. However, when the hooks 68 and latches 72 are not manually rotated to be in engagement, the feeder tube 32 will lift the upper feed gate 60 with lift means 72. Therefore, the Cole et al. '274 patent does not disclose an outer cylinder that is guided in a rotatable manner on an inner cylinder or a downpipe that includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder. Such rotatable and rotational delimiting elements are not disclosed. Accordingly, claim 60 is in condition for allowance. Furthermore, claim 69 depends from claim 60, and since claim 60 defines patentable subject matter as discussed above, claim 69 defines patentable subject matter. Accordingly, claims 60 and 69 are in condition for allowance.

All pending claims 20-79 are believed to be in condition for allowance, and a Notice of Allowability is therefore earnestly solicited.

Respectfully submitted,

January 16, 2007

Date

/Marcus P. Dolce/

Marcus P. Dolce, Registration No. 46 073
Price, Heneveld, Cooper, DeWitt & Litton, LLP
695 Kenmoor, S.E.
Post Office Box 2567
Grand Rapids, Michigan 49501
(616) 949-9610

MPD/msj